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CONSTITUTIONAL LAW — SEPARATION OF POWERS — DELEGATION — *STARE DECISIS*. — A Texas statute punished as a crime the operation of pool rooms in any district that voted to prohibit them. This statute had been held unconstitutional by the Texas Supreme Court, contrary to a prior decision of the co-ordinate Court of Criminal Appeals. *Cf. Ex parte Mitchell*, 177 S. W. 953, with *Ex parte Francis*, 72 Tex. Cr. R. 304, 165 S. W. 147. The question of the constitutionality of the statute is now brought once more to the Court of Criminal Appeals. *Held*, that the statute is constitutional. *Ex parte Mode*, 180 S. W. 708.

The constitutionality of liquor local option laws is now well settled. See JOYCE, INTOXICATING LIQUORS, §§ 368, 371. Most courts have rested their decision on the ground that the statutes are not a delegation of legislative power but are laws to take effect on a contingency. *Locke's Appeal*, 72 Pa. St. 491; *People v. McBride*, 234 Ill. 146, 84 N. E. 865. However, as the voters pass on exactly the same question as the legislature and relieve it of responsibility, it is submitted that such a statute is in fact a delegation, and the same courts have so decided in case the referendum is to the voters of an entire state. *State v. Hayes*, 61 N. H. 264; *Opinion of the Justices*, 160 Mass. 586, 36 N. E. 488. *Contra, State v. Frear*, 142 Wis. 320, 125 N. W. 961. The law is better justified as a delegation within the field of those local regulations which it is proper for the legislature to delegate. *Commonwealth v. Bennett*, 108 Mass. 27. *Cf. Feek v. Township Board of Bloomingdale*, 82 Mich. 393, 47 N. W. 37. See COOLEY, CONSTITUTIONAL LIMITATIONS, 7 ed., 173, 174; 19 HARV. L. REV. 203. This argument applies even more emphatically to pool rooms than to liquor establishments, as the former are everywhere recognized as a proper subject of local control. *City of Burlingame v. Thompson*, 74 Kan. 393, 86 Pac. 449; *Cole v. Village of Culbertson*, 86 Neb. 160, 125 N. W. 287. Hence, the Court of Criminal Appeals was justified in treating the statute as constitutional unless it was precluded from so doing by the decision of the Supreme Court. Prior to this decision, the Supreme Court had held itself bound by the decisions of the Court of Criminal Appeal on criminal matters. *Green v. Southard*, 94 Tex. 470, 61 S. W. 705; *Commissioners' Court v. Beall*, 98 Tex. 104, 81 S. W. 526. To have continued such a course would have avoided the absurd anomaly of two conflicting laws in a single state which has now resulted from treating the question of what decision is binding as one, not of subject matter, but solely of the court where the action is brought. However, as the question in the principal case was one of criminal law, the Court of Criminal Appeals properly disregarded the decision of the Supreme Court and followed their former holding.

CORPORATIONS — DISSOLUTION — DEVOLUTION OF PROPERTY ON DISSOLUTION: CHOSER IN ACTION. — After the expiration of the charter of a corporation, the business was continued by the single stockholder in the corporate name. By statute an expired corporation continued in existence for an indefinite period for the sole purpose of winding up its business. (1915, KY. STAT., § 561.) After the dissolution certain deposits which were held by foreign banks in the name of the corporation were assessed for taxation both at the corporate home and at the domicile of the stockholder. *Held*, that the tax should be collected at the stockholder's domicile. *Ewald's Executor v. City of Louisville*, 181 S. W. 1095 (Ky.).

By the old common law rule debts due a corporation were extinguished by its dissolution. 1 BL. COMM. 484; *Bank of Mississippi v. Duncan*, 56 Miss. 166. Later the rule in regard to personalty, that it reverts to the Crown as *bona vacantia*, was extended to apply to the debts of an extinct corporation. *In re Higginson and Dean*, [1899] 1 Q. B. 325. See 19 HARV. L. REV. 610. The hardship of such a rule is now largely obviated by statutes authorizing the courts to dispose of the assets of the corporation, usually by the appointment of receivers. But in our courts, even in the absence of a statute, equity, apparently

ignoring the claim of the state, has regarded the corporate assets as a trust fund for the benefit of the stockholders and creditors. *Connecticut Life Insurance Co. v. Dunscomb*, 108 Tenn. 724, 69 S. W. 345; *Craycraft v. National Building & Loan Ass'n*, 117 Ky. 229, 77 S. W. 923. Cf. *Bacon v. Robertson*, 18 How. 480. Where there is no insolvency the title to the corporation property on dissolution is regarded as in the stockholders as tenants in common, subject, of course, to the rights of the creditors to have it applied in satisfaction of the corporation debts. *Baldwin v. Johnson*, 95 Tex. 85, 65 S. W. 171. See 15 HARV. L. REV. 743. In the principal case it would seem that title passed to the stockholder immediately upon dissolution. The statute it is submitted makes no difference. Where there is no intention to wind up the business, and no winding up was desirable or necessary, it is hard to see why the indefinite extension in the statute should postpone the vesting of title in the stockholder.

DEATH BY WRONGFUL ACT — STATUTORY LIABILITY — ABATEMENT AND REVIVAL: DEATH OF BENEFICIARY. — A Massachusetts statute provides that the administrator of one killed by a negligent act can maintain a suit for the benefit of the deceased's next of kin, the amount of recovery to be proportionate to the defendant's negligence. (1910, MASS. REV. LAWS, SUPPLEMENT, 1378.) While an action under this statute was pending, the next of kin died. *Held*, that the action is not abated, since the statute is punitive. *Johnston v. Bay State Street Ry. Co.*, 111 N. E. 391 (Mass.).

At common law it finally became settled that a person pecuniarily injured by the death of a relative had no right of action against one wrongfully causing the death. *Baker v. Bolton*, 1 Camp. 493; *Carey v. The Berkshire R. Co.*, 1 Cush. (Mass.) 475. See TIFFANY, DEATH BY WRONGFUL ACT, 2 ed., § 11. Cf. *Hermann v. The New Orleans, etc. R. Co.*, 11 La. Ann. 5, 22. Statutes now generally authorize the deceased's administrator to sue for the benefit of financially dependent relatives, recovering only the pecuniary loss they have actually sustained. TIFFANY, DEATH BY WRONGFUL ACT, 2 ed., § 153. Again, though at common law actions of tort usually did not survive the plaintiff's death, statutes now invariably provide that actions for injuries to property rights shall survive. See 1 WILLIAMS, EXECUTORS, 8 ed., 797, 798. And an injury to property, within the meaning of the statutes, is whatever is an injury to the estate of the deceased plaintiff. *Nettles v. D'Oyley*, 2 Brev. (S. C.) 27. Since the beneficial plaintiff in an action for wrongful death can only recover for the actual financial loss he has incurred, his cause of action arises from an injury to his estate. *Matter of Meekin v. Brooklyn, etc. R. Co.*, 164 N. Y. 145, 58 N. E. 50; *Union Steamboat Co. v. Chaffin's Admrs.*, 204 Fed. 412. Accordingly, the action should not be abated by his death, although, by showing the actual brevity of the period of loss, the beneficiary's death may be evidence tending to diminish the amount of damages. *Cooper v. Shore Electric Co.*, 63 N. J. L. 558, 44 Atl. 633; *Shawnee v. Cheek*, 41 Okla. 227, 248, 137 Pac. 724, 731. See TIFFANY, DEATH BY WRONGFUL ACT, 2 ed., § 87. Cf. *Morris v. Spartanburg Ry., etc. Co.*, 70 S. C. 279, 49 S. E. 854; *Billingsley v. St. Louis, etc. Ry. Co.*, 84 Ark. 617, 107 S. W. 173. *Contra*, *Gilkeson v. Missouri, etc. R. Co.*, 222 Mo. 173, 121 S. W. 138; *Harvey v. Baltimore, etc. R. Co.*, 70 Md. 319, 17 Atl. 88. In the principal case the action is brought under a unique punitive statute, which is merely a substitute for indictment and fine. See *Brown v. Thayer*, 212 Mass. 392, 398, 99 N. E. 237, 240. See TIFFANY, DEATH BY WRONGFUL ACT, 2 ed., § 44. And as punitive actions aim to punish the tortfeasor, not to redress the injury, they should survive the death of the incidental beneficiary. *Western Union Telegraph Co. v. Scirde*, 103 Ind. 227, 2 N. E. 604. Cf. *Prescott v. Knowles*, 62 Me. 277, 280.

DEEDS — CONSTRUCTION — DEEDS TO GROWING TIMBER: RIGHTS OF THE GRANTEE. — The defendant granted, by deed, the timber then standing on his